

Message Text

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ACTION EUR-25

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FM AMEMBASSY MOSCOW

TO SECSTATE WASHDC 8401

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E.O. 11652: N/A

TAGS: BDIS UR US

SUBJ: TRADE COMPLAINT - PATENT MANAGEMENT INC. VS LICENSINTORG

1. UNDER COVER OF MINISTRY OF FOREIGN AFFAIRS NOTE NO. 735 DATED APRIL 30, EMBASSY HAS RECEIVED MATERIAL RELATING TO COMMERCIAL DISPUTE BETWEEN MARYLAND FIRM PATENT MANAGEMENT INC. AND LICENSINTORG. MATERIAL INCLUDES SUMMONS ISSUED BY U.S. DISTRICT COURT FOR MARYLAND (CIVIL ACTION FILE NO. H-74-352) DATED APRIL 8, 1974 CALLING UPON LICENSINTORG TO RESPOND TO PMI'S COMPLAINT WITHIN 20 DAYS. IN ACCOMPANYING NOTE, FOREIGN MINISTRY POINTS OUT THAT PROCEDURE FOLLOWED BY U.S. DISTRICT COURT WAS IMPROPER IN THAT UNDER US-SOVIET EXCHANGE OF NOTES OF NOVEMBER 22, 1935, COURT ORDERS OF THIS SORT ARE TO BE TRANSMITTED THOROUGH DIPLOMATIC CHANNELS. MINISTRY'S NOTE DOES NOT GO INTO MERITS OF CASE PER SE BUT DOES CLAIM THAT U.S. COURT NOT COMPETENT IN MATTER.

2. ACCOMPANYING MATERIAL ALSO INCLUDES COPY OF PMI'S COMPLAINT, WHICH RELATES TO US PATENT OBTAINED BY PMI, AS AGENT FOR LICENSINTORG, COVERING HPTR COLD TUBE REDUCER MILLS. PMI COMPLAINT ALLEGES THAT LICENSINTORG VIOLATED EXCLUSIVE RIGHTS FOR THIS MACHINE GRANTED TO PMI BY SELLING MACHINES, WHICH WERE CLEARLY DESTINED FOR USE IN UNITED STATES, TO SWEDISH FIRM SANDVIK AB. MACHINES WERE THEN SHIPPED TO SANDVIK'S US SUBSIDIARY.

3. IN LETTER TO U.S. DISTRICT COURT, LICENSINTORG POINTS OUT THAT: A) PROPER PROCEDURE FOR DELIVERING COMPLAINT WAS NOT FOLLOWED;
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B) PMI-LICENSINTORG CONTRACT COVERING HPTR MACHINES SPECIFIES

THAT ANY DISPUTES ARISING UNDER CONTRACT SHOULD BE SUBJECT TO ARBITRATION IN STOCKHOLM; AND C) US AND USSR ARE BOTH PARTIES TO 1958 CONVENTION ON ADMISSION AND EXECUTION OF FOREIGN ARBITRATION AWARDS. ON BASIS OF THESE THREE POINTS, LICENSINTORG ASKS THAT CASE BE DISMISSED.

4. ENTIRE PACKAGE OF MATERIAL WILL BE POUCHED TO DEPARTMENT ATTENTION EUR/SOV-KOVNER. DEPARTMENT MAY WISH TO ADVISE PMI OF SOVIET RESPONSE IN MEANTIME AND INFORM DISTRICT COURT THAT RESPONSE ON ITS WAY. PLEASE ADVISE IF EMBASSY SHOULD RESPOND TO FOREIGN MINISTRY'S NOTE.

DUBS

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